

REMARKS

The present application includes pending claims 1-44, all of which have been rejected. Claims 1, 11, 22, 30 and 40 have been amended.

Claims 1-9, 11-19, 21-38 and 40-44 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 6,813,775 ("Finseth") in view of U.S. 5,872,588 ("Aras"). Claims 10 and 39 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Finseth in view of Aras and 2006/0031883 ("Ellis"). Claim 20 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Finseth in view of Aras and U.S. 5,659,366 ("Kerman"). The Applicants respectfully traverse these rejections for at least the reasons previously discussed during prosecution and the following.

The Office Action notes that "[i]n response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (*i.e.*, recipient requesting information from sharer) are not recited in the rejected claim(s)." *See* January 29, 2009 Office Action at page 2. The Applicants thank the Examiner for this helpful suggestion. Accordingly, the Applicants have amended the independent claims to clarify that the recipient requests information from the sharer, per the suggestion from the Office Action. For example, claim 1 now recites, in part, "receiving a request for consumption of media of a second user at the second location, from a first user at the first location; at the time of said receiving the request for consumption of media of the second user at the second location, from the first user at the first location, sending at least one indication of media consumption activity to the second user at the second location, via the communication network, if the at least one condition is met, to enable interaction of the first user and the second user during media consumption by the first user."

The claim is clear that at the time the request for media consumption is received from the first user, at least one indication of media consumption activity is sent to the second user if the at least one condition is met.

The Office Action asserts that Finseth discloses all of the claim limitations except that it “unclear with respect to [indication of media consumption] being ‘during media consumption.’” *See* January 29, 2009 Office Action at page 4. Note, the claim does not recite that the indication of media consumption is sent during media consumption. Rather, it specifically recites that the indication is sent at the time the **request for media consumption** is received.

As explained below, Finseth does not describe, teach or suggest one user requesting media of another user. That is, Finseth does not describe, teach or suggest “receiving a request for consumption of media of a second user at the second location, from a first user at the first location; at the time of said receiving the request for consumption of media of the second user at the second location, from the first user at the first location, sending at least one indication of media consumption activity to the second user at the second location, via the communication network, if the at least one condition is met, to enable interaction of the first user and the second user during media consumption by the first user,” as recited in claim 1.

Finseth “relates to systems and methods for presenting media programs to subscribing viewers, and in particular to a system and method for sharing viewer preferences among viewers.” Finseth at column 1, lines 16-19. Finseth discloses a method that “transmit[s] at least a portion of the first viewer preference information to a second user for storage in a memory of a second user device.” *See id.*

In Finseth, one subscriber decides to share information with another subscriber. After the subscriber decides, without any prompting from the other, to share that information, Finseth

discloses that the other may choose to receive portions of the information that the other decided to share. *See id. e.g.*, at column 17, lines 29-44. However, Finseth does not describe, teach or suggest that the recipient first requested any information from the sharer. Instead, the sharer decides to share information with the recipient. The recipient may then determine portions of the information to receive.

In particular, Finseth discloses the following:

The method comprises the steps of storing first user viewer preference information characterizing media programs selected by the first user in a memory of a first user device, and transmitting at least a portion of the first viewer preference information to a second user for storage in a memory in a second user device.

Id. at column 2, lines 22-33. Further,

When the user wants to share viewing preference information, the user initiates the process using, for example, remote control 86. To share viewing preference information a user must first select with whom to share the information, which is represented by box 132.

Id. at column 12, lines 23-28 (emphasis added). *See also id.* at column 13, lines 35-48 (“When a user decides to share viewing information with a group, the user initiates a multi-step process...”).

Thus, Finseth is clear that the sharing process is initiated by a sharer selecting another subscriber(s) with whom to share the viewer preference information. The process does not begin, however, with the recipient requesting anything from the sharer.

As noted above, Finseth discloses a system in which a user sends viewer preferences at his/her own choosing. *See id.* at column 12, lines 23-25 (“**When the user wants to share viewing preference information**, the user initiates the process using, for example, remote control 86.”). The user may also set up a regular time in which to share the viewer preference

information. *See id.* at column 12, lines 49-51 (“A user can select to regularly share preference information by establishing a **share interval** as will be discussed in more detail below.”).

The Applicants respectfully submit, however, that Finseth does not describe, teach or suggest **“at the time of said receiving the request for consumption of media of the second user at the second location, from the first user at the first location, sending** at least one indication of media consumption activity to the second user at the second location, via the communication network, if the at least one condition is met, to enable interaction of the first user and the second user during media consumption by the first user,” as recited in claim 1. There is nothing in Finseth that describes, teaches or suggests that **at the time of receiving** such a **request, an indication of media consumption activity is sent to the second user at a second location.**

Additionally, Finseth teaches that the stored preference information is only sent to another user at a second location when the first user at the first location chooses to initiate the sending by an action separate from the request for media consumption, or upon the setting and passing of an interval of time upon which the system of the first user will send the contents of the “history table.” If the user in Finseth does not initiate sending of the preference information, and does not set a time interval for automatic sending of preference information, the system of Finseth does not send the preference information at all, and certainly does not **“at the time of said receiving the request for consumption of media of the second user at the second location, from the first user at the first location, sending** at least one indication of media consumption activity to the second user at the second location, via the communication network, if the at least one condition is met, to enable interaction of the first user and the second user during media consumption by the first user,” as recited in claim 1. Indeed, Finseth fails to even

recognize the utility of sending an indication to a second user at a second location of the request for media consumption by a first user at a first location, at the time the request is received. Further, Finseth teaches that the “preference information” sent upon receiving a request of a first user or according to a regular time interval selected by the first user **is placed in storage for later** access by a second user at the second location, and is not sent to the second user at the second location **at the time of receiving such a request for media consumption** (which differs from “during media consumption”). *See id.* at column 19, lines 10-28. Thus, for at least this additional reason, the Applicants respectfully request reconsideration of the claim rejections.

The Office Action notes that “Aras provides that the technique for providing an indication of media usage “during media consumption (*i.e.*, real-time reporting)...” *See* January 29, 2009 Office Action at page 4. As noted above, however, claim 1 does not recite that the indication of media consumption is sent during media consumption. Rather, it specifically recites that the indication is sent at the time the **request for media consumption** is received. Thus, for at least this additional reason, the Applicants respectfully request reconsideration of the claim rejections.

The remaining independent claims have been amended in a similar fashion as claim 1. Thus, the Applicants respectfully request reconsideration of the claim rejections for at least the reasons discussed above.

In general, the Office Action makes various statements regarding the pending claims and the cited references that are now moot in light of the above. Thus, the Applicants will not address such statements at the present time. However, the Applicants expressly reserve the right to challenge such statements in the future should the need arise (*e.g.*, if such statement should become relevant by appearing in a rejection of any current or future claim).

The Applicants respectfully request reconsideration of the claim rejections for at least the reasons discussed above. If the Examiner has any questions or the Applicants can be of any assistance, the Examiner is invited to contact the undersigned attorney.

The Commissioner is authorized to charge any necessary fees, or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Account No. 13-0017.

Respectfully submitted,

Date: April 20, 2009

/Joseph M. Butscher/
Joseph M. Butscher
Registration No. 48,326

MCANDREWS, HELD & MALLOY, LTD.
500 West Madison Street, 34th Floor
Chicago, Illinois 60661
Telephone: (312) 775-8000
Facsimile: (312) 775-8100